

Remarks:

6. Claims 1, 3-6, and 22-32 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 2, 4-7 and 9 of U.S. Patent Application Ser. No. 10/762,104.

U.S. Patent Application Ser. No. 10/762,104 is currently pending. Consequently, it is premature to determine whether a double patenting rejection is appropriate. Upon the allowance of claims in the '104 application, a determination regarding the appropriateness of the present non-statutory double patenting rejection can be made. Applicants therefore respectfully request that this rejection be held in abeyance until such time as claims in the '104 application are allowed.

7. Claims 1-7, 22-32, and 34-38 are rejected on the ground of non-statutory obviousness-type double patenting as being unpatentable over claims 1-5 of U.S. Patent No. 7,179,538.

Applicants entered a terminal disclaimer in the present application terminally disclaiming the portion of a patent that issues from the present application, which portion would extend beyond the term of the '538 Patent. Consequently, applicants respectfully request this rejection be withdrawn.

9. Claims 1-7, 22-32, and 34-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over Japanese Patent Publication No. JP-05237006 ("Hiroyoshi") or German Patent No. DE 4447171 ("Schmidt") alone or in view of U.S. Patent No. 2,601,671 ("Wilson").

According to the rejection, Hiroyoshi and Schmidt disclose a laminate comprising a leather layer and a laminating layer, and Wilson discloses a leather board comprising a leather material impregnated with phenol formaldehyde. According further to the rejection, it has been held that making integral of separate parts a prima facie case of obviousness. Applicants respectfully disagree with the characterization of the references, and the rejection based thereon.

Present invention claims 1, 7, 26, 34, and 37 recite a heat and pressure consolidated laminate that includes in superimposed relationship a core layer containing at least one cellulosic sheet impregnated with a thermosetting resin, and a first decorative layer consisting essentially of leather (claims 1 and 26), or bonded leather (claim 7), or leather animal hide (claim 34), or bonded leather animal hide (claim 37). Claims 7 and 26 further recite that the cellulosic sheet within the core layer is impregnated with thermosetting phenol-formaldehyde, and claim 7 also recites an overlay layer having at least one sheet of alpha cellulose paper impregnated with melamine formaldehyde resin. A bond formed from the thermosetting resin consolidates the layers together within the laminate.

Hiroyoshi, as can be seen from the English language abstract thereof, involves the manufacture of shoes – not heat and pressure consolidated laminates. According to Hiroyoshi, the heel portion of a shoe can be manufactured using a core member 1 wrought in a lunar shape 2. The core member 1 is coated with an adhesive 5, such as counter cement, on both sides. An impregnated sheet of paper 3 is stuck to one side of the core member using an adhesive 4 – it is not bonded using a thermosetting resin.

There is nothing in the process and shoe product disclosed with Hiroyoshi that suggests that the leather core member 1 can be used within a heat and pressure laminate that uses a thermosetting resin to bond the layers together. On the contrary, Hiroyoshi teaches away from a heat and pressure consolidated laminate by disclosing that the paper 3 is attached to the leather by a surface applied adhesive.

In addition, one of the advantages provided by the present invention laminate is that the leather decorative layer allows the user to feel and smell the leather. The thermosetting resin migrates into the decorative layer from the core layer to create the bond, but does not travel all the way through the leather decorative layer. Hiroyoshi, in contrast, teaches that both surfaces of the core member are sealed with an adhesive 5. This teaching clearly shows that the glued heel shoe subassembly taught by Hiroyoshi cannot be used within the present laminate and a person of ordinary skill in the art would not combine them to arrive at the claimed laminate, or find the claimed laminate predictable in view thereof.

Schmidt discloses a composite body that includes a first glass plate 1, a second glass plate 2, laminatable material layers 4, 5, and a sample-giving layer 6:

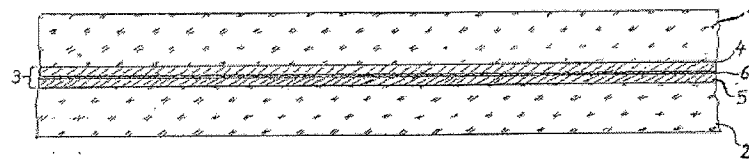


Fig. 1

Schmidt discloses that in the production of the composite body, the laminatable materials disposed between the glass plates soften and partly penetrates into the fabric disposed there between. There is no disclosure within Schmidt that the glass composite includes a core layer containing at least one cellulosic sheet impregnated with a thermosetting resin.

As indicated above, one of the advantages provided by the present invention laminate is that the leather decorative layer allows the user to feel and smell the leather. This is not possible in the glass composite taught by Schmidt.

Wilson discloses a resin-impregnated "leather board". According to Webster's Dictionary, the term "leather board" is defined as being "a composition of paper, leather scraps, etc., used to imitate sole leather". The historical use of "leather board" as a product used to manufacture shoe components (e.g., soles, lasts, etc.) is confirmed by disclosures within U.S. Patent Nos. 1,995,179; 2,600,461; 3,542,705 and 4,321,721. Hence, the leather board product disclosed by Wilson is wholly different from the decorative layer recited in the present application.

In sum, none of Hiroyoshi, Schmidt, or Wilson teach or suggest a heat and pressure consolidated laminate that includes in superimposed relationship a core layer containing at least one cellulosic sheet impregnated with a thermosetting resin, a first decorative layer consisting essentially of leather (claims 1 and 26), or bonded leather (claim 7), and a bond formed from the thermosetting resin that consolidates the layers together within the laminate. For at least these reasons, applicants respectfully submit that the rejection has been traversed and request that the rejection be withdrawn.

In view of the above, Appellants respectfully requests that all of the rejections in the present case be withdrawn and all of the pending claims 1-7, 22-32 and 34-38 be passed to issuance.

Please charge our deposit account no. 50-3381 for the fee associated with the one-month extension fee, and any other fees that may be due in connection with filing this response.

Respectfully submitted,



Richard D. Getz
Reg. No. 36,147
O'Shea Getz P.C.
1500 Main Street, Suite 912
Springfield, MA 01115
(413) 731-3100, Ext. 103